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Attorneys for the Plaintiff and Chapter 7
Trustee, WESLEY H. AVERY

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re VIVIAN MARIE SHAW,

Debtor.

WESLEY H. AVERY, as Chapter 7 Trustee for the
Bankruptcy Estate of In re Vivian Marie Shaw,

Plaintiff,

v.

CLYDE LUCIEN SHAW, an individual,

Defendant.

CASE NO. 2:14-bk-31148-BB

[Chapter 7]

Adv. Case No.:

COMPLAINT FOR (1.)
DECLARATORY RELIEF; (2.)
TURNOVER OF BANKRUPTCY
ESTATE PROPERTY UNDER 11
U.S.C. §542(a); AND (3.)
AUTHORIZATION TO SELL
ESTATE PROPERTY PURSUANT
TO 11 U.S.C. §363(h) AND FRBP
7001(3)) FREE OF CO-OWNER
INTEREST

COMES NOW the Plaintiff and Chapter 7 Trustee for the above-referenced bankruptcy estate, Wesley H. Avery ("Plaintiff"), and he hereby requests that the bankruptcy court enter judgment against the Defendant, Clyde Shaw ("Defendant"), as follows: (1.) declaring that the bankruptcy estate holds a joint tenancy interest in the single family residence commonly known as 9523 Nan Street, in Pico Rivera, CA 90660 (the "Property") as successor in interest to the Debtor, Vivian Marie Shaw ("Debtor") and that Plaintiff may liquidate the Property pursuant to the Orders of the Marital Dissolution Court concerning the Property for the benefit of the bankruptcy Estate; (2.) requiring the Defendant to turn over the Property to the Trustee; and (3.) authorizing the Trustee to

1 sell the Property free of the Defendant's interest as a co-owner therein pursuant to 11 U.S.C.
2 §363(h). In support thereof, the Plaintiff alleges and states as follows:

3
4 JURISDICTION

5 1. On November 11, 2014 ("Petition Date"), the Debtor filed the voluntary petition to
6 commence the chapter 7 bankruptcy case, In re Vivian Marie Shaw, Bankr. Case No. 2:14-bk-
7 31148-BB (the "Bankruptcy Case"), which created the Bankruptcy Estate ("Estate").

8 2. The Debtor owns an interest in the Property that became an Estate asset when the
9 Debtor filed the Bankruptcy Case. The Defendant has refused to deliver possession of the real
10 property to the Plaintiff so that the Property, which is subject to liquidation to benefit the Estate
11 under 11 U.S.C. §363, can be sold by the Plaintiff. This Court has jurisdiction over this adversary
12 proceeding pursuant to 28 U.S.C. §1334(a), and 28 U.S.C. §157(b)(1) and (b)(2). Venue is proper
13 under 28 U.S.C. §1409(a). This action is a "core proceeding" as defined in 28 U.S.C.
14 §157(b)(2)(E), (J), and (O), and FRBP 7001.
15

16 STANDING

17 3. The Trustee has standing to file this adversary action under Bankruptcy Code 11
18 U.S.C. §542(a), §704(a)(1) and under FRBP 7065, in his capacity as the duly appointed and acting
19 chapter 7 trustee for the Bankruptcy Estate.
20

21 GENERAL ALLEGATIONS

22 4. Debtor's "Schedule A-Real Property" lists the "Property. "Schedule A" states that
23 the Debtor owns an interest in the Property as a "Joint Tenant." The Grant deeds show the
24 Property is owned by "Clyde L. Shaw and Vivian Shaw, husband and wife as joint tenants."

25 5. The Defendant lived in the Property at the time Debtor filed the Bankruptcy Case.
26 The Debtor did not live in the Property at the time of bankruptcy and she did not therefore claim
27 an exemption in the Property pursuant to *California Code of Civil Procedure* §704.730 in
28

1 Schedule "C." Debtor alleged, in Schedule "A," that the current value of the Property is
2 \$372,000.00. "Schedule D-Creditors Holding Secured Claims" shows that there is a 1st trust
3 deed against the Property to secure a mortgage with a balance of \$190,000.00 in favor of Seterus.

4 6. At the Trustee's request, Jan Neiman, a licensed real estate agent, broker, and
5 owner of Neiman Realty, Inc. (Jointly referred to as the "Agent" or "Ms. Neiman") inspected the
6 Property exterior and advised the Trustee that the fair market value of the Property is
7 approximately \$372,000.00.
8

9 7. The Trustee's investigation shows the marriage of the Defendant and the Debtor
10 was dissolved on January 22, 2009, by judgment entered in Vivian M. Shaw v. Clyde L. Shaw,
11 L.A.S.C. Case No. BD480597. The "Attachment to Judgment" required the Property to be
12 placed immediately for sale upon entry of the judgment with the net proceeds divided 50/50
13 between the Debtor and the Defendant after closing fees and costs of sale were paid.
14

15 8. The minute order of the marital dissolution court entered December 19, 2012
16 regarding "Petitioner's Request For Order Re: Sale of the Family Residence, Attorney Fees and
17 Costs (Filed August 9, 2012)" provides that, as of December 19, 2012, the Property equity was
18 \$121,311.00, and that either party could buy out the other's interest by paying \$60,655.50. The
19 December 19, 2009 minute order further provided that the Defendant could buy out the Debtor's
20 interest by immediately paying her \$40,000.00 in cash and required Defendant to finance the
21 balance and to pay the Debtor \$20,655.50 within 90 days or to obtain a promissory note from the
22 petitioner. The hearing on the sale of the family residence was continued to March 20, 2013.
23

24 9. At the continued hearing on March 20, 2013, the Debtor and the Defendant
25 entered into a stipulation that was approved by the marital dissolution court on order to show
26 cause. The marital dissolution court held that Defendant had paid the Debtor \$40,000.00, but
27 still owed the Debtor the balance (\$20,655.50). The Defendant was therefore ordered to pay the
28

1 Debtor \$15,000.00 on or before April 30, 2013 towards the \$20,655.30 balance. The \$5,655.30
2 balance was to be paid, with interest at a rate of 10%, in monthly installments of \$300.00
3 commencing April 1, 2013. Defendant was further ordered to pay \$5,500.00 in attorney fees,
4 plus interest at the legal rate of 10% commencing April 1, 2013. The Order was signed by the
5 Debtor and Defendant and then entered by the marital dissolution court on March 20, 2013.
6

7 10. A continued hearing on the sale motion and the stipulation and order for payment
8 by Defendant to the Debtor was held in the marital dissolution court on June 12, 2014. At that
9 hearing, the marital dissolution court found that the Defendant had not paid the \$15,000.00
10 owing to the Debtor and also awarded the Debtor \$5,000.00 in attorney fees to bring that matter
11 to a total owing to the Debtor to \$20,000.00. The marital dissolution court ordered Defendant to
12 pay the entire amount by September 30, 2014. If not, the residence shall be sold with the
13 Defendant receiving a credit for all amounts paid to the Debtor for her share of the equity out of
14 the sale proceeds and the balance of sale proceed were to be divided equally between the Debtor
15 and the Defendant.
16

17 11. Subsequently, the Trustee is informed and believes that the Defendant failed to
18 comply with the marital dissolution court's June 12, 2014 order requiring the Defendant to pay
19 the Debtor \$20,000.00, including \$15,000.00 for the Debtor's equity in the Property and
20 \$5,000.00 in attorney fees. Pursuant to the dissolution court's orders, the Property is now subject
21 to sale and the Plaintiff seeks to liquidate the Property to benefit creditors of this Estate.
22

23 12. The Trustee is informed and believes there is not less than \$50,000.00 in equity in
24 the Property that Estate can realized from a sale and used to pay general unsecured creditors
25 holding allowed claims against the Estate after real estate commissions, cost of sale, and credits
26 for monies paid by Defendant, as ordered by the marital dissolution court. The Trustee therefore
27 claims the Property for the Estate with the intent of selling it to benefit unsecured creditors.
28

FIRST CLAIM FOR RELIEF

DECLARATION RE: RIGHTS OF OWNERSHIP

(BANKRUPTCY CODE, 11 U.S.C. §105, 28 U.S.C. §2201)

(Against the Defendant)

13. Plaintiffs hereby incorporate the allegations in paragraphs 1 through 12 of this Complaint into this claim for relief, herein in full.

14. An actual controversy now exists between the Plaintiff and the Defendant. The Defendant claims ownership of the Property while refusing to comply with the June 12, 2014 Order of the Marital Dissolution Court requiring that the Property to be liquidated and the proceeds split if Defendant did not pay the Debtor \$15,000.00 by September 30, 2014. In addition, the Plaintiff is informed and believes that Defendant failed to pay the Debtor \$5,000.00 for attorney fees as ordered by the Marital Dissolution Court on June 12, 2014.

15. Plaintiff, as the duly appointed and acting Trustee, asserts that legal and equitable ownership of the Property is and remains in the Bankruptcy Estate as the Defendant failed to comply with the Marital Dissolution Court's June 12, 2014 Order, and that the Plaintiff may administer that asset to benefit the Estate and its creditors.

16. Plaintiff is informed and believes that the Defendant was and is in possession of the Property without right and he is refusing to turnover possession of the Property.

17. The Plaintiff now seeks a judicial determination of the respective rights and duties of the Plaintiff and the Defendant with respect to the Property as follows:

a. That the Debtor held a legal and equitable ownership interest in the Property pre-bankruptcy as a joint tenant;

b. That the Estate succeeded to the Debtor's legal and equitable interest and rights in and to the Property on and after the date the Debtor filed the Bankruptcy

1 Case and pursuant to the orders in the marital dissolution court;

2 c. That the Defendant is in possession of the Property without legal or
3 equitable right as a result of the orders of the marital dissolution court requiring
4 him to pay the Debtor \$15,000.00 by September 30, 2014, or to sell the Property,
5 and pay the Debtor her share of the net sale proceeds as required in the June 12,
6 2014 Order, which the Defendant failed to do;

7
8 d. That Plaintiff, as Trustee for the Estate is entitled to take possession of the
9 Property as an asset of the Estate pursuant to 11 U.S.C. §541(a)(1);

10 e. That the Plaintiff is entitled to sell the Property and to distribute the sale
11 proceeds to the Estate and to Defendant in accordance with the June 12, 2014
12 Orders of the marital dissolution court; and,

13
14 f. That the Estate is entitled to an offset against the proceeds of the sale of
15 the Property that Defendant would otherwise be entitled to receive in the amount of
16 \$5,000.00 for attorney fees that Defendant was ordered to pay the Debtor by order
17 of the Marital Dissolution Court on June 12, 2014 but which Plaintiff is informed
18 and believes the Defendant failed to pay.

19
20 SECOND CLAIM FOR RELIEF

21 TURNOVER OF BANKRUPTCY ESTATE PROPERTY

22 (BANKRUPTCY CODE, 11 U.S.C. §542(a))

23 (Against the Defendant)

24 18. Plaintiffs hereby incorporate the allegations in paragraphs 1 through 17 of this
25 Complaint into this claim for relief, herein in full.

26
27 19. Plaintiff is informed and believes that the Property has equity, the value of which is
28 not inconsequential, that Plaintiff can use, sell, or lease pursuant to Bankruptcy Code 11 U.S.C.

1 §363 to benefit the Estate.

2 20. The Defendant has possession, custody, and controlled of the Property at the time
3 of bankruptcy and that the Property became an Estate asset pursuant to 11 U.S.C §541(a)(1) when
4 Debtor filed bankruptcy. Post-bankruptcy the Defendant has remained in possession custody and
5 controlled of the Property.
6

7 21. The Property is an asset of the Estate subject to turnover by Defendant to Plaintiff
8 as the duly appointed and acting chapter 7 trustee.

9 22. Plaintiff is informed and believes the Defendant has an affirmative duty to turn the
10 Property over to Plaintiff, but the Defendant has failed and refused to do so.

11 23. The Defendant is now interfering with Plaintiff's performance of his duties
12 pursuant to 11 U.S.C. §704 by refusing to turn over the Property to the Plaintiff and to allow him
13 to sell the Property, and by continuing to wrongfully and without right exercise dominion and
14 controlled over the Property in disregard of Plaintiff's authority under the Bankruptcy Code.
15

16 24. As a consequence of the foregoing, Plaintiff is entitled to an order for turnover of
17 the Property and/or its value.
18

19 THIRD CLAIM FOR RELIEF

20 AUTHORIZATION TO SELL CO-OWNER INTERESTS

21 (11 U.S.C. §363(h); FRBP 7001(3))

22 (Against the Defendant)

23 25. The Trustee hereby incorporates the allegations in paragraphs 1 through 24 of this
24 Complaint into this claim for relief, herein in full.

25 26. The Trustee contends that the Property is a community property asset of the Estate
26 or alternatively that the Estate owns an interest in the Property as a joint tenant.
27

28 27. To the extent that the Court determines that the Estate and the Defendant each own

1 interests in the Property as joint tenant, and that the Defendant rightfully owns his joint tenancy
2 interest in the Property which is not an interest obtained by a fraudulent conveyance, the Trustee
3 requests authorization as the duly authorized chapter 7 trustee for the Estate to sell the interests of
4 the Estate and the Defendant as co-owners of the Property free and clear of the Defendant's
5 ownership interest in the Property.
6

7 **WHEREFORE**, Plaintiff prays for judgment on each of the above claims, as follows:

8 **FIRST CLAIM FOR RELIEF, DECLARATORY RELIEF:**

9 For judgment declaring:

10 28. That the Debtor held a legal and equitable ownership interest in the
11 Property pre-bankruptcy as a joint tenant;

12 29. That the Estate succeeded to the Debtor's legal and equitable interest and
13 rights in and to the Property on and after the date the Debtor filed the Bankruptcy
14 Case and pursuant to the orders in the marital dissolution court;

15 30. That the Defendant is in possession of the Property without legal or
16 equitable right as a result of the orders of the marital dissolution court requiring
17 him to pay the Debtor \$15,000.00 by September 30, 2014, or to sell the Property,
18 and pay the Debtor her share of the net sale proceeds as required in the June 12,
19 2014 Order, which the Defendant failed to do;

20 31. That Plaintiff, as Trustee for the Estate is entitled to take possession of the
21 Property as an asset of the Estate pursuant to 11 U.S.C. §541(a)(1);

22 32. That the Plaintiff is entitled to sell the Property and to distribute the sale
23 proceeds to the Estate and to Defendant in accordance with the June 12, 2014
24 Orders of the marital dissolution court; and,

25 33. That the Estate is entitled to an offset against the proceeds of the sale of
26
27
28

1 the Property that Defendant would otherwise be entitle to receive in the amount of
2 \$5,000.00 for attorney fees that Defendant was ordered to pay the Debtor by order
3 of the Marital Dissolution Court on June 12, 2014 but which Plaintiff is informed
4 and believes the Defendant failed to pay.
5

6 SECOND CLAIM FOR RELIEF, TURN OVER OF THE PROPERTY (11 U.S.C. §542(a)):

7 34. That the Property and/or the Estate's joint tenancy interest therein is an Estate asset
8 pursuant to 11 U.S.C. §541(a)(1) and that the Property and/or its value must be turned over by the
9 Defendant to the Plaintiff as asset of the Estate.

10 35. For judgment requiring the Defendant to turn over the Property, and/or for
11 damages in the amount of the value of the Debtor's interest in the Property, in such an amount as
12 the Plaintiff proves at trial.
13

14 36. For a judgment requiring the Defendant to account for the Property.

15 37. For a judgment compelling the Defendant to turn over the Property to the Plaintiff
16 or his agents within 10 days of any judgment for turnover.

17 38. For authorization for the Plaintiff to obtain a writ of execution on ex parte
18 application to this Bankruptcy Court if the Defendant or any parties in possession of the Property
19 do not turnover the Property as the Court orders and to utilize the U.S. Marshals service to aid in
20 enforcing of the Court's order.
21

22 THIRD CLAIM FOR RELIEF, AUTHORIZATION TO SELL CO-OWNERS INTEREST (11
23 U.S.C. §363(h); FRBP 7001(3)):

24 39. For judgment authorizing the Trustee to sell the Property free and clear of any
25 claim, right, lien, or interests claimed by the Defendant to the extent that the Court finds that the
26 Estate is the legal and equitable owner of an interest in the Property as a joint tenant with
27 Defendant.
28

1 CLAIM FOR RELIEF AS TO ALL CAUSES OF ACTION:

2 40. For such other and further relief as the court deems just and proper.

3 Dated: April 2, 2015

LAW OFFICES OF BRETT CURLEE
BRETT B. CURLEE

6 By: Brett B. Curlee
7 BRETT B. CURLEE
8 Attorneys for the Plaintiff and Chapter
7 Trustee, WESLEY H. AVERY

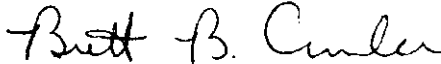
FORM B104 (08/07)

2007 USBC, Central District of California

ADVERSARY PROCEEDING COVER SHEET (Instructions on Page 2)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS Wesley H. Avery, as Chapter 7 Trustee for the Bankruptcy Estate of In re Vivian Marie Shaw	DEFENDANTS CLYDE LUCIEN SHAW, an individual			
ATTORNEYS (Firm Name, Address, and Telephone No.) Law Offices of Brett Curlee 11377 West Olympic Boulevard, Suite 200 Los Angeles, CA 90064 Telephone (310) 203-3084	ATTORNEYS (If Known)			
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Declaratory Relief 11 U.S.C. Section 105 and 28 U.S.C. Section 2201; Turnover of bankruptcy estate property 11 U.S.C. Section 542 (a); Authorization to sell co-owner interests				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preferences <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input checked="" type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </td> </tr> </table>			FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preferences <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input checked="" type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law <input type="checkbox"/> Check if a jury trial is demanded in complaint	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 Demand \$ 50,000.00			
Other Relief Sought				

FORM B104 (08/07), page 2

2007 USBC, Central District of California

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Vivian Marie Shaw		BANKRUPTCY CASE NO. 2:14-bk-31148-B
DISTRICT IN WHICH CASE IS PENDING Central District of California	DIVISIONAL OFFICE Los Angeles	NAME OF JUDGE Sheri Bluebond
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 4/2/15	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Brett B. Curlee, Esq. 	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

Adversary Cover Sheet (Continued):

Address of the Defendant:

Clyde Lucien Shaw
9523 Nan Street
Pico Rivera, CA 90660